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OBSERVATIONS
ON THE
PROCEEDINGS IN COUNCIL
At MADRAS,
WITH
A Short Account of the CHANGE of GOVERNMENT there
in AUGUST 1776.

Madras Presidency - Council
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THE commotions at Madras in the year 1776, the dispossessing Lord Pigot of the government of that place, and the conduct of the East-India Company in restoring the province of Tanjore to the Rajah they had assisted in removing, have given rise to so many publications, that there remains but little probability of any thing new being offered on the subject.

One question, however, in this dispute has been but little attended to, or stands so involved in political disquisitions and the mutual accusations of the contending parties, as to be little understood.

It is the question of right arising between the President, or Governor, and the Council appointed with him to manage the affairs of the Company; no other branch of these disputes, is here meant to be examined.

It is much to be regretted, that the Court of Directors, when the accounts of these transactions first came before them, did not at once

give a definition of the powers meant to be entrusted to the parties, and draw the attention of the Proprietors to this state of the question, as the decision of this point decided every other.

In the consideration of this constitutional question, nothing personal, nothing foreign to the question of right, is meant to be offered. But it is necessary, before any thing further is said upon it, to relate the facts which gave rise to the dispute.

In the year 1773, the Nabob of Arcot persuaded the East-India Company's Servants at Madras to assist him in the reduction of the neighbouring fort and country of Tanjore.

In 1775, the Directors, taking this affair and its supposed consequences into consideration, determined to remove the then Governor, and Lord Pigot was sent out to succeed him.

The Company's instructions to this new Government, or, more properly speaking, to this new President and Council, had two principal objects in view—the restoration of Tanjore to the dominion of the Rajah, *under certain conditions*—and the establishment of a *Committee of Circuit*, to visit and examine into the nature and management of their different revenues under that Presidency.

The Committee of Circuit was not to proceed on business till the Rajah of Tanjore was re-established.

The Nabob represented against the injustice—the breach of faith, as he called it—of dispossessing him of Tanjore. He would upon no account give his consent to the Company's re-establishing the Rajah, but did not object to their garrisoning the fort with their own troops.

“ Take

“ Take (said he) the kingdom of Tanjore under your own protection
 “ —garrison the forts—keep your army there—share the revenues of
 “ the country—leave me in possession in name only, because it pre-
 “ serves my honour and character.” In conformity to this declaration,
 he never attempted to resist the restoration by force, though he con-
 tinued to represent against it.

The Company's orders for the restoration were considered as positive;
 and the conduct of the Nabob naturally suggesting doubts of his ob-
 structing the execution of them, Lord Pigot thought it necessary that
 some persons of consequence should be present at putting the Rajah in
 possession of the government of the country, and proposed that he him-
 self should be sent there, and have liberty to take along with him such
 other of the Company's Servants, civil or military, as he judged pro-
 per. The Council acquiesced, and vested him, while on this business,
 with all power, civil as well as military.

25 March,
 1776.

This was not carried without opposition in Council, and deserves
 particular attention for two reasons; first, because it shews the opinion
 Lord Pigot *then* entertained of the powers of the Council; and next,
 that till then nothing but harmony had appeared among them.

Lord Pigot's conduct, during his stay at Tanjore, did not give uni-
 versal satisfaction.

An officer of Dragoons, in his Lordship's suite, had, according to
 the spirit, but not according to the letter, of an order he had received
 from his Lordship, entered the Nabob's country and brought off one
 of his principal officers a prisoner to Tanjore. The Nabob made bit-
 ter complaints of this outrage to the Council at Madras, and not find-
 ing redress there, to the Governor General and Council at Bengal.

Lord

Lord Pigot had ordered one Comero a Dubath, a man of some note and high cast or birth, to be flogged on the public parade of Tanjore, without form or process.

He put the Rajah in possession not only of the Government, but gave him also immediate possession of the crop upon the ground, without regard to the Nabob's claims for the expence he had been at in sowing it; the money for which had been lent him by Mr. Benfield, a transaction as natural in India, and as common, as it is in this for a man to take up money on mortgage.

Sir Robert Fletcher too made heavy complaints, that his Lordship had exercised authority over the army, as if he had been Commander in Chief.

13 May,
1776.

These things, notwithstanding the vote of approbation passed by the Council on his Lordship's conduct at Tanjore, seem to have left a leaven of dissatisfaction in the minds of several of the members.

The records do not afford a minute account of some transactions that soon followed his Lordship's return to Madras, yet they must have been considerable, as about a month after, the Nabob is found claiming the protection of Sir Edward Hughes against the violence his Lordship threatened him with, and had partly put in execution.

3 June.

Lord Pigot admitted, in his reply to Sir Edward Hughes, that he had mentioned to the Nabob a design he had formed of placing a guard at his palace, to seize such Europeans as desired admittance to his presence, but denied any intention of violence against his Highness's person.

17 June.

Lord Pigot seems to have considered the Nabob's claiming protection from the King's Squadron as very disrespectful to himself; and in consequence,

consequence, moved three resolutions in Council.—That the purport of it was to create animosity between the Members of the Company's Government—That thus circumstanced, it was indecent, improper, and contrary to the orders of the Company, to hold correspondence of any kind with the Nabob or his sons—That he should be desired to remove from Madras, and reside at Arcot.—The two first resolutions were carried by his Lordship's casting vote; the latter was thrown out.

These disputes concerning the Nabob were not fully adjusted, when Mr. Benfield's claim on the Tanjore crop was brought on a new, and the Council refused to confirm the negative before put on this affair.

Unanimity was now fled from the Board. His Lordship on finding a majority of Council against him, brought forward claims of exclusive authority as President, which were answered by minutes and protests against his arbitrary maxims. Disputes followed disputes, upon the same grounds, but upon different subjects, and afforded a scene of constant altercation, until his Lordship absolutely refused to put the question for Colonel Stuart to take upon him the command of Tanjore, "unless (for he tacked a condition to the refusal) Mr. Ruffel was allowed to go there as Resident." This brought matters to a crisis.

19 August.

In the course of these debates, Lord Pigot asserted the following claims of authority over the Council, and acted in conformity thereto.

That the President can prevent any question being moved at the Board, which he does not approve of.

That

That the President can put any question he approves of, though the Majority of Council should disapprove of it.

That the President can adjourn the Council as he pleases.

That the President's concurrence is necessary, to make an Act of Council valid; consequently he has a negative on all their proceedings.

That the necessity of circumstances may be such as to render it necessary for the President to counteract the opinion of his Council.

His Lordship founded these claims upon the words of the Commission of Government, and upon the custom and practice of all the Governors of the Company's Settlements in India.

The Council founded their denial of these claims of the President's authority over them upon the words of the Commission of Government, granting to the Majority of the President and Council full power and authority to rule and govern, &c.

Where two different parties pretend to have the right of Government, one of them must soon prevail. It is surprising in this case, that it did not come sooner to a conclusion. All business had been at a stand for three days, owing to the President's refusing to put the question ordered by the Majority. The Council was afraid of the consequences of urging their authority, and agreed to adjourn from day to day. At last the Majority finding the President determined in his conduct, came to the resolution in the Council-room of writing an order to the Secretary, to sign, *by order of Council*, the instructions for Colonel Stuart, and a letter for Colonel Harper to deliver up the command of Tanjore to him.

This

This direction wrote, the two senior Members of Council signed it, and before any of the others could do so, Lord Pigot got hold of the Paper, and at the same time instantly produced from his pocket a written charge against the two Gentlemen that had signed it, of having been thereby guilty of an act subversive of government. A question of adjournment was then moved by the Majority, but Lord Pigot put the question of suspension upon Messrs. Stratton and Brooke, not *separately*, but *jointly*, and ordered the Secretary to take neither of their votes upon it; whereby, and with the assistance of his own casting vote, he declared the suspension carried.

22 August,
1776.

The Majority asserted the nullity of this suspension, and the five who were summoned the next day to Council, instead of attending it, sent a protest by the hands of a Notary Public to the President, and to the Members who adhered to him.—It charged his Lordship with offering an unexampled outrage to the constitution, and with arbitrary behaviour to two Members of the Council, whom he had attempted by 'trick*' to deprive of their seats at the Board, and rank in the service; and asserted their right, authority, and claim to the Government of the settlement as a Majority of Council.—This protest was laid by his Lordship before that part of the Council that obeyed his summons, but no further notice was taken of it; upon which the Majority published it to the Settlement.

The promulgation of their claims being made known to Lord Pigot, and those who adhered to him, they met in the Council Room, and sent letters of suspension to each of those who had signed the protest.

The Commander in Chief, Sir Robert Fletcher, being one of them, was ordered in arrest, to be tried by a court martial, for endeavouring

* This expression was made use of, as Lord Pigot himself proposed to Mr. Stratton, that the order to the Secretary should be wrote, and on seeing it declared his approbation of it, before either Mr. Stratton or Mr. Brooke signed it. At this time, it has been seen, he had the charge in his pocket.

to excite mutiny and sedition; and Colonel Stuart was appointed to take the command of the army in his stead.

23 August,
1776.

The Majority, upon receipt of their letters of suspension, and being acquainted with the directions for bringing Sir Robert Fletcher to trial for his life, issued counter orders to Colonel Stuart, charging him to arrest the President, who had overturned all law and government.

Colonel Stuart, necessitated to choose between the contending parties, thought it his duty to obey the Majority of the Council.— In consequence therefore of the orders he received from them, he arrested Lord Pigot; and Mr. Stratton, being next in Council, was immediately proclaimed President of the Council, and Governor of Fort St. George.

As soon as the Majority had possession of the seat of Government, they, in turn, suspended the Members of the Minority of Council, for having assisted and abetted Lord Pigot in his illegal, unconstitutional, and violent proceedings.

Whoever gives any attention to the facts above related, will see, that the whole of these disputes, when stripped of the false colours that interest or connection have so lavishly laid on them, must, as has been said above, depend upon the decision of one or two plain and direct questions.

Is the power of Government vested in the President alone, or in the Majority of that Council in which he presides?

This is the point on which all the rest turns; for should this first question be decided in favour of the President, the matter is at an end—the Council stands condemned.—But should it be determined against the President, another question will arise before the Council can completely be acquitted:

Was the necessity of the case such as can justify the suspending and arresting the President and Governor?

As to the first of these questions.

It cannot be denied, that the spirit of every free government has always been applied to place the power, which must necessarily be lodged somewhere, in as many different hands as possible. Our own history sufficiently evinces this, without reference to other times; and England has always endeavoured to make the constitution of her colonies resemble that of the mother-country as much as circumstances would admit.—It follows from these two principles, that the general presumption of right is in favour of the Majority of Council against the President, in whom, if any exclusive authority is vested, it must be by some particular act or statute which has not been produced.

Lord Pigot carried out with him two commissions, the one civil, the other military; the former constitutes him President and Governor of the settlement, and nominates a Council to enable him to manage the Company's affairs—This is the beginning and stile of the commission.—The latter part of it, which recites and defines the power granted, never mentions the President's name without the Council, in a Majority of whom all power and authority is thereby vested.

It has been asserted, that the President must make one of that Majority—an assertion founded merely on the words President and Council.—The Chancellor, in the House of Lords, must be upon the woolsack—The Speaker of the House of Commons, and the President of the Privy Council, must be in their respective chairs before any of these constituent parts of Government can pass a resolution, or decide on any question that comes before them.—But has it ever been heard, that either Chancellor, Speaker, or Lord President, claimed a negative over the proceedings of the Assembly in which they respectively preside.—The Chairman, or Deputy Chairman, of the East India Company, must be present to render any act, either of the Directors, or of the Proprietors, valid; but if either of these Gentlemen should put,

or refuse to put the question, or adjourn, or refuse to adjourn the Court, contrary to the opinion of the Majority present, most people would think any one of these steps sufficient reason for chusing a new Chairman or Deputy, before the end of the year for which he was elected.

All the arguments made use of, in support of the President's claim of exclusive power, resting upon the necessity of his presence, admitting (though not granting) that to be true, the consequence by no means follows which has been assumed, that the Governor being present, is not bound by the opinion of the Majority.—On the contrary, it is directly and clearly determined by the standing orders—
 “ Whatever shall be agreed on by the Majority, shall be esteemed the
 “ order by which each one is to act; and accordingly every individual
 “ person, even the dissenters themselves, are to perform their parts in
 “ the prosecution thereof; and in so doing they do their duty, and
 “ must not be blamed.”——Again, “ We do strictly enjoin, that all
 “ our affairs be transacted in Council, and ordered and managed as the
 “ Majority of Council shall determine, and not otherwise, upon any
 “ pretence whatsoever,” &c.—Lord Pigot's warmest advocates, aware of this defect, content themselves with the assertion, without offering a single proof or argument in support of this position.

It is very remarkable, that in so plain a case, where neither the general spirit of the Company's constitution, nor the particular commissions to individuals, give any room for the President's claim of exclusive authority over the Council, it should, notwithstanding, have been so often the subject of reference to the Court of Directors; and it is the more remarkable, as the answers from Europe, since the revolution, and even the explanatory orders since sent on this affair, have uniformly crushed all such pretensions, and originally even denied the President a casting vote.

Having discussed the Civil Commission, the Military one need not take up much time. It is apprehended no Military commission can be so framed as to supercede a Civil one; but this one certainly does not, since it confines the powers given to Fort St. George; and the instructions that draw the line between the President of the Council, Governor of the Fort, and the Commander in Chief of the Company's forces, narrow that power, small as it is, the Governor being obliged, in time of danger, to give up all command, even within the Fort, to the Commander in Chief.

As to the *second* question—the *necessity* of the arrest.

If the right of Government was in the Majority, it was their duty to promulgate it, Lord Pigot's to submit; instead of which, he attempted to turn them out of the Council, and ordered the Commander in Chief to be tried for his life by a *military* Court, because he had asserted the right of a Majority of Council in his *civil* capacity of Counsellor.

To those who cannot in *this* see the *necessity* of the Arrest, the following questions are proposed for solution:

First, If the authority of Government is vested in a Majority of Council, and not in the President alone, has not the Majority a better right of suspending the President, than the President has of suspending the Majority?

Second, If the President, instead of submitting to the voices of a Majority, attempts turning them out of the seat of Government, by what other means can the Majority keep possession of their right, than by seizing the person of the President?

Third, When matters of Government come to such extremity, which party is to bear the blame of the consequences—the one who has, or the one who has not, a legal right to Government?

If,

If, after weighing these arguments, any impartial person can doubt that the authority of Government has at all times been vested in the Majority of Council, or that the President has at any time been more than the senior Member of that Council, the clear and explicit decision of the Governor General and Council at Bengal, ought to have great weight.

Both parties having appealed and sent every official information to that Board, the different claims were maturely weighed, and it was unanimously decided, that according to the constitution of the Company's Government at Madras, the power of Government was vested in the Majority.

The Governor General and Council went still further, and in virtue of the powers vested in them by Parliament, not only published this decision, but required obedience to it from the several servants of the East India Company; and at the same time recommended to the Commander in Chief of his Majesty's Squadron, to countenance and support the new Government.

The rights of the Majority being thus determined, the means employed by them to prevent these rights from being wrested out of their hands, can never be deemed criminal.

That resisting unlawful authority is not only justifiable but meritorious, none who acknowledge the present happy system of government established in this island can deny. For upon this ground rests every Act of State since the Revolution.

And that the Majority only resisted by continuing to exercise the powers with which they were constitutionally entrusted, does not admit of a doubt. The President was the aggressor; by the shameful attempt

attempt to suspend two of the Members of that Board, and the order to arrest a third, he compelled them to the decisive step they took.

Deaf to remonstrance, and determined at all hazards to carry into effect his own arbitrary resolves; could those, to whom the East India Company had entrusted their Government, be vindicated in allowing him to do so. When convinced that nothing could divert him from his purpose, they then, and not till then, arrested him. And it does very much redound to the honour of the Majority, that this measure was so conducted, as to be attended neither with bloodshed or tumult.

Having secured the person of the President, they continued to govern the Settlement with a spirit of moderation that is rarely to be met with in a triumphant party; but as the powers they had asserted were their due, they were the less elated by success, and seemed only intent on securing the peace and prosperity of those under thier Government.

Very different was the conduct pursued by the late President: treated with every mark of tenderness and respect, lodged in the very house which of all others was the most acceptable to him in India, visited and at liberty to visit whom and where he pleased (in the Fort only excepted), he made use of that liberty, by every means and through every channel he could devise, to obstruct not only the course of public justice, but by his correspondence to create feuds and disturbances that might have involved our settlements in a ruinous war.

When he could pursue such measures and create such disturbances under restraint, the Majority had just reason to apprehend he would not be less active or successful if set at liberty. Here again their moderation

moderation is conspicuous; for they entreated him to desist from such practices, they offered him every assistance of Government to return to Europe, or remove to any other of the Company's settlements in India, exacting only his word of honour not to impede or molest their Government, before the final determination of their honourable Masters should arrive from England. This condition he fully rejected; thereby refusing to comply with the indispensable duty of every good citizen. Does not this vindicate their continuing him under restraint?

So much for the conduct of the Majority of Council, in removing Lord Pigot from the Board, and acting under the next in seniority. If in so doing, they have acted unconstitutionally or unwarrantably, their prudent and successful administration of the public affairs will hardly screen them from censure; yet, with the liberal and unbiassed, it must clearly evince, that, if they have been guilty of any misunderstanding of the orders under which they acted, they were not actuated by any sinister or selfish motives, but by a principle of duty to their employers, and for the good of their country.

These are the points to be discussed when India affairs shall come under the consideration of Parliament; for as to the death of Lord Pigot, after what the world has *lately* heard and seen on that subject, even brotherly affection would be inexcusable, in ascribing that much to be regretted event in any respect to the Members of the Majority.
